



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,426	05/23/2007	Izidor Brajnovic	NOBELB.246NP	1951

20995 7590 08/12/2009
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

EXAMINER

PATEL, YOGESH P

ART UNIT	PAPER NUMBER
----------	--------------

3732

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

08/12/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

Office Action Summary	Application No. 10/584,426	Applicant(s) BRAJNOVIC, IZIDOR	
	Examiner YOGESH PATEL	Art Unit 3732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/16/2009 has been entered.

Drawings

The Examiner has withdrawn the objection to the drawings made in previous office action of 03/18/2009 in view of arguments presented on 06/16/2009.

Specification

The new abstract submitted on 06/16/2009 is entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

Art Unit: 3732

applicant regards as the invention. No antecedent basis found for “the second sleeve-shaped part” and “the fastening member,” respectively.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

No support found for the limitation in claim 12. The specification discloses that “The second sleeve-shaped part 10 has a narrowed part with a width B' which can constitute ca. 70% of a width B" of the first part 10a of the second sleeve-shaped part.” The Examiner believes that it is approximately 70% of the width of the **first part**, and not that first sleeve-shaped part. Please clarify.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3732

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1- 6 and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duerr et al. (5,549,475) in view of Sutter et al. (5,947,733)

Duerr discloses a dental implant and method of positioning dental prosthesis (e.g. crown) including coupling a first sleeve-shaped part of a spacer member to the dental implant. Duerr shows that the first sleeve is being coupled to the implant using threads 12. Note that using a separate screw to couple two elements (e.g. sleeve and an implant) is also well-known in the art, see Kwan as previously cited) and therefore it would have been obvious to one skilled in the art at the time of the invention was made to couple these two elements (e.g. 34 and 11) using a screw as an alternate solution. Further, Duerr shows guiding an inner surface of a first portion of the second sleeve-part 22/46 against an outer surface of the first sleeve part. Duerr fails to show that rotating the screw to expand at least portion of the first sleeve part such that the outer surface of the first sleeve part expands against the second sleeve.

Sutter teaches a dental implant (fig. 3A) and a first sleeve 500 which expand against the inner surface of second sleeve part. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Duerr by providing an expanding ring as taught by Sutter in order to effectively secure the dental implant system assembly. Further, since the ring is expandable, one can easily adjust the required force to couple the two elements together.

Regarding claim 12, Duerr/Sutter fails to teach specific width of the 2nd sleeve-shaped part. It would have been obvious to one of ordinary skill in the art at the time of

Art Unit: 3732

the invention was made to have specific width since it has been held that discovering the optimum value of a result effective variable involves only routine skills in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding claim 17-18, Sutter shows that the expanding ring have a beveled surface which is designed to the bearing surface on the head of the screw (col. 7, lines 51-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Duerr by providing a desired shape of the ring to accommodate the head portion of the screw as taught by Sutter so that upon pressure, the ring can be expanded as desired.

Claims 7-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duerr in view of Sutter as applied to claim 1 or 2 above, and further in view of Chalifoux.

Duerr/Sutter discloses the invention substantially as claimed except for the second sleeve part having lower sleeve-shaped portion and narrower portion which supports the fastening member (e.g. screw).

Chalifoux teaches a dental implant having a sleeve-part 4 having a lower sleeve-shaped part 6 and the narrower part 8 and the second sleeve part is approx. 70% of the width of the first sleeve part. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Duerr/Sutter by providing the second sleeve part as claimed as taught by Chalifoux in order to provide exact fit to the implant and to support prosthesis.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duerr et al. in view of Sutter et al. as applied to claim 18 above, and further in view of Lazarof (6,142,782).

Duerr/Sutter discloses the invention substantially as claimed except for the first sleeve-shaped part comprises a plurality of longitudinal slots.

Lazarof teaches an expansion nut 78 (e.g. sleeve shaped, figure 2) having plurality of slots. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Duerr/Sutter by providing the first sleeve part as claimed as taught by Lazarof in order to effectively expand the ring upon screwing.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOGESH PATEL whose telephone number is (571)270-3646. The examiner can normally be reached on 8:00 to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3732

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/YOGESH PATEL/
Examiner, Art Unit 3732

/Ralph A. Lewis/
Primary Examiner, Art Unit 3732